

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 2:24-cv-03481 DSF (ADS) Date: September 5, 2024

Title: Noel Gutierrez Amaya v. Warden

Present: The Honorable Autumn D. Spaeth, United States Magistrate Judge

Kristee Hopkins
Deputy Clerk

None Reported
Court Reporter / Recorder

Attorney(s) Present for Petitioner(s):
None Present

Attorney(s) Present for Respondent(s):
None Present

**Proceedings: (IN CHAMBERS) SECOND ORDER TO SHOW CAUSE
REGARDING DISMISSAL**

Noel Gutierrez Amaya (“Petitioner”) filed a Petition for Writ of Habeas Corpus by a Person in Federal Custody (“Petition”) on April 22, 2024. (Dkt. No. 1.) On April 26, 2024, the Court notified Petitioner that he did not pay the required \$5.00 filing fee or submit a completed Request to Proceed In Forma Pauperis (“IFP Request”), and that he must do so within thirty days.¹ (Dkt. No. 2.) After Petitioner failed to do so, the Court ordered Petitioner to show cause why this case should not be dismissed for failure to prosecute by July 16, 2024. (Dkt. No. 4.) In response, Petitioner requested a 30-day extension to pay the filing fee. (Dkt. No. 5.) On July 22, 2024, the Court granted the request and ordered Petitioner to pay the filing fee by no later than August 21, 2024. (Dkt. No. 6.) As of the date of this Order, Petitioner still has not paid the mandatory \$5 filing fee or filed a properly completed IFP request.

¹ Pursuant to 28 U.S.C. § 1915(a), a prisoner seeking to proceed with a civil action without prepayment of fees must submit “an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees” as well as “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.”

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Petitioner is again **ORDERED TO SHOW CAUSE** in writing why this action should not be dismissed for failure to prosecute **by no later than September 26, 2024**. Petitioner may respond to this Order (1) by paying the \$5.00 filing fee or (2) by filing a properly completed IFP Request. If Petitioner wishes to proceed with his Petition, he must either pay the filing fee or file a completed IFP Request. If Petitioner no longer wishes to pursue his claims, he may request a voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a). *The Clerk of Court is directed to attach a Notice of Dismissal Form (CV-09) to this Order for Petitioner's convenience.*

Petitioner is expressly warned that failing to comply with this Order will result in the recommendation that this action be dismissed for failure to prosecute or to obey Court orders pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 41-6.²

IT IS SO ORDERED.

Initials of Clerk kh

² This order is nondispositive. However, if Petitioner believes this order erroneously disposes of any of his claims or precludes any relief sought, he may file objections with the district judge within 20 days of the date of the order. See Bastidas v. Chappell, 791 F.3d 1155, 1162 (9th Cir. 2015).